



35

1/ku DAC

**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Attention: Director of Technology Center 3700

Toshiaki ASADA et al.

Group Art Unit: 3748

Application No.: 10/553,279

Examiner: C. CHANG

Filed: October 14, 2005

Docket No.: 125284

For: VARIABLE VALVE MECHANISM

**PETITION UNDER 37 C.F.R. §1.181  
TO RESET PERIOD OF REPLY TO OFFICE ACTION AND TO WITHDRAW  
HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

According to the Patent Office PAIR database, an Office Action (Notice of Allowance) was mailed by the Patent Office on March 31, 2008 for the above-identified application. However, such Office Action was never received through the mail by the law firm of Oliff & Berridge, or by the Applicant or anyone else associated with the prosecution of this application.

During a routine status check Applicant's undersigned representative checked the Patent Office PAIR database and discovered the existence of a March 31, 2008 Office Action. Applicant's undersigned representative also discovered that the March 31, 2008 Office Action was returned as "undelivered" to the Patent Office on April 2, 2008, as indicated on PAIR. Because an image file wrapper of this application was available from the Patent Office, on July 9, 2008, Applicant's undersigned representative downloaded the March

31, 2008 Office Action. Accordingly, through Applicant's own efforts, Applicant obtained the March 31, 2008 Office Action on July 9, 2008.

Accordingly, Applicant requests that the time period for replying to the outstanding Office Action be reset to start on July 9, 2008, i.e., the date that Applicant became aware of, and obtained by downloading from the PTO website, the March 31, 2008 Office Action.

Applicant's undersigned representative submits that Applicant has satisfied the requirements set forth in MPEP 710.06, which relates to the present situation. In particular, section I of MPEP 710.06 most closely relates to the present situation, although, as explained above, Applicant never received the Office Action through the mail, but rather obtained the Office Action from the image file wrapper available over PAIR. With respect to section I(A), this Petition is being filed within two weeks of the July 9, 2008 date of discovery of and receipt of the Office Action. With respect to section I(B), a substantial portion of the set reply period (i.e., the entire statutory period for reply) had elapsed when Applicant received the Office Action. With respect to I(C), Applicant's undersigned representative has explained and set forth the date of receipt of the Office Action. Applicant cannot show any evidence regarding receipt of the Office Action that was mailed by the Patent Office, because Applicant still has not received the Office Action that was allegedly mailed. However, Applicant can show that that the March 31, 2008 Office Action was returned to the Patent Office on April 2, 2008.


In order to further establish that the March 31, 2008 Office Action was not received by mail by Applicant's undersigned representative, attached hereto are two attachments related to the above-identified application. Attachment 1 is an outline of the image file wrapper for this application, printed from PAIR. The April 2, 2008 entry states that "Mail returned to USPTO as undelivered." Attachment 2 is a printout of the case summary of the instant application from the docketing department of Applicant's representative law firm,

Oliff and Berridge. The printout shows the case was most recently updated on March 25, 2008 and the most recent item of the docket is the completion of a status check on March 14, 2008. As the Oliff & Berridge docketing department immediately enters Patent Office communications when received (usually by mail from the Patent Office), the fact that the Office Action was not entered into the docketing system further establishes that the Office Action allegedly mailed by the Patent Office on March 31, 2008 was never received by Oliff & Berridge.

Although it is believed that no fee is due, the Patent Office is authorized to charge Deposit Account No. 15-0461 for any fees deemed necessary to grant this Petition.

The appropriate Patent Office official is invited to contact Applicant's undersigned attorney at the telephone number listed below if there are any questions or if any additional information is desired.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Moshe K. Wilensky  
Registration No. 56,263

JAO:MKW/jgg

Attachments:

- Attachment 1
- Attachment 2

Date: July 11, 2008

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

<p><b>DEPOSIT ACCOUNT USE AUTHORIZATION</b> Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
---



125284

10/553,279

VARIABLE VALUE MECHANISM

07-09-  
2008::12:02:16

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click PDF.

## Bibliographic Data

Mail Room Date	Document Code	Document Description	Document Category	Page Count
04-02-2008	RETMAIL	Mail returned to USPTO as undelivered	PROSECUTION	11
03-31-2008	NOA	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	7
03-31-2008	892	List of references cited by examiner	PROSECUTION	1
03-31-2008	SRNT	Examiner's search strategy and results	PROSECUTION	3
03-31-2008	BIB	Bibliographic Data Sheet	PROSECUTION	1
03-31-2008	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
03-31-2008	FWCLM	Index of Claims	PROSECUTION	1
03-31-2008	1449	List of References cited by applicant and considered by examiner	PROSECUTION	1
03-31-2008	1449	List of References cited by applicant and considered by examiner	PROSECUTION	2
03-31-2008	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
09-13-2007	PEFR	Applicant Response to Pre-Exam Formalities Notice	PROSECUTION	2
09-13-2007	IDS.LET	Information Disclosure Statement Letter	PROSECUTION	1
09-13-2007	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	1
09-13-2007	FOR	Foreign Reference	PRIOR ART	27
09-13-2007	FOR	Foreign Reference	PRIOR ART	37
07-20-2006	CFILE	Request for Corrected Filing Receipt	PROSECUTION	4
07-06-2006	M903	Notice of DO/EO Acceptance Mailed	PROSECUTION	2
10-14-2005	TRNA	Transmittal of New Application	PROSECUTION	2
10-14-2005	136A	Authorization for Extension of Time all replies	PROSECUTION	2
10-14-2005	SPEC	Specification	PROSECUTION	76
10-14-2005	CLM	Claims	PROSECUTION	8
10-14-2005	ABST	Abstract	PROSECUTION	2
10-14-2005	DRW	Drawings-only black and white line drawings	PROSECUTION	11
10-14-2005	OATH	Oath or Declaration filed	PROSECUTION	4
10-14-2005	ADS	Application Data Sheet	PROSECUTION	1
10-14-2005	IMIS	Miscellaneous Internal Document	PROSECUTION	1
10-14-2005	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
10-14-2005	A.PE	Preliminary Amendment	PROSECUTION	1
10-14-2005	CLM	Claims	PROSECUTION	10
10-14-2005	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
10-14-2005	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	2
10-14-2005	FOR	Foreign Reference	PRIOR ART	19
10-14-2005	FOR	Foreign Reference	PRIOR ART	18
10-14-2005	FOR	Foreign Reference	PRIOR ART	24
10-14-2005	FOR	Foreign Reference	PRIOR ART	6
10-14-2005	NPL	NPL Documents	PRIOR ART	3
10-14-2005	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	26
10-14-2005	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	35
10-14-2005	ADS	Application Data Sheet	PROSECUTION	1
10-14-2005	371P	Documents submitted with 371 Applications	PROSECUTION	3

JUL 11 2008

PATENT &amp; TRADEMARK OFFICE

## Patent - Co Actions Due - Patent

## Actions Due

New

Copy

Search

Save

Print

Delete

Undo

Exit

Docket Number	125284	Country	US	United States of America	Sub Case	
Title	Variable Valve Mechanism				Case Type	PCT
Application No.	10/553,279	Filing Date	14-Oct-2005	Status	Published	
Client	TAKADA, TAKAHASHI & PARTNERS					
Owner	TOYOTA JIDOSHA KABUSHIKI KAISHA					
Action Type	Office Action Status Check			Base Date	14-Mar-2008	
			Electronic Action	<input type="checkbox"/>	Response Date	
					Action Verify Date	

Due Dates

Remarks

Actions Due	Due Date	Indicator	Taken	Resp	Remarks
Office Action Status Check	14-Mar-2008	Due Date	<input checked="" type="checkbox"/>	14-Mar-2008	
Status Check-Examination	14-Aug-2008	Due Date	<input checked="" type="checkbox"/>		
*			<input checked="" type="checkbox"/>		

Record: 14 1 of 2

Created By CPICov

08-Sep-2005 12:00 AM

Updated By amun

25-Mar-2008 9:17 AM

Go to:

Country Application

Record: 14 20 of 31

NUM

start

Inbox - Mic...

Document I ...

E Eke Enterp...

Patent - Co...

Document3 ...

Actions Due...

11:12 AM